



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/670,445

09/25/2003

Rainer Hartwig

ECC-5764

3423

30452

7590

03/25/2008

EDWARDS LIFESCIENCES CORPORATION
LEGAL DEPARTMENT
ONE EDWARDS WAY
IRVINE, CA 92614

EXAMINER

MARSH, STEVEN M

ART UNIT

PAPER NUMBER

3632

MAIL DATE

DELIVERY MODE

03/25/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/670,445	Applicant(s) HARTWIG ET AL.	
	Examiner STEVEN M. MARSH	Art Unit 3632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 January 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 and 21-28 is/are pending in the application.
- 4a) Of the above claim(s) 16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15, 17, and 21-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This is the fourth office action for U.S. Application 10/670,445 for a Container Support Device filed on September 25, 2003. Claims 1-17 and 21-28 are pending. Claim 16 is withdrawn.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-15, 17, and 21-28 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 3,750,994 to Bieschke. Bieschke discloses a support device that could support a fluid container, with an attachment member (42, 43) with an attachment member base (43) that can couple a container support device to a weight scale. There is a joint body (30, 45) with first (30) and second (45) joint members attached to the attachment member and configured to rotate about a vertical axis thereof. There is also a container support body (23) secured to the joint body and at least one container support (21) extending from the support body and coupled to the body in rotatable relation. The container support is oriented to stably support a fluid container (a tube could be secured to the support with an elastic fastener, such as a rubber band) and the container support is oriented at a non-perpendicular angle with

respect to the vertical axis (it is parallel to it). The support also has a flared free end (tab 25) that could support a container.

There is a rotation mount (34,35,42) positioned on the attachment member base and configured to have the joint body rotatably coupled thereto. The second joint member is movably coupled to the first joint member in movable relation and the first joint member has a first joint body base (32) with a rotation body (54,58) located thereon. There is a universal joint assembly with multiple (54, 58) block and pin universal joints and there are at least two container supports equidistant from the vertical axis of the support body (the end caps on the end of 16, not numbered in the '994 patent, but described in U.S. Patent 3,191,663 to Bieschke, which would be the 2nd and 3rd container supports... 21 being the first). The support device is configured to be coupled to a system for providing blood filtration therapies. The second joint member is configured to move along a first arc A1 and the support body is movably coupled to the second joint member and configured to move along a second arc A2, the arc A1 being perpendicular to A2.

Response to Arguments

Applicant's arguments filed January 7, 2008 have been fully considered but they are not persuasive. In response to applicant's arguments, the recitation hemofiltration system has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body

Art Unit: 3632

of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Marsh whose telephone number is (571) 272-6819. The examiner can normally be reached on Monday-Friday from 8:00AM to 4:30 PM. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-3600. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.


/Amy J. Sterling/
Primary Examiner, Art Unit 3632

/S. M. M./

Examiner, Art Unit 3632

Steven Marsh

March 13, 2008

Application Number 	Application/Control No.	Applicant(s)/Patent under Reexamination	
	10/670,445	HARTWIG ET AL.	
	Examiner	Art Unit	
	STEVEN M. MARSH	3632	